

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application ) Application No. C-1321  
of TCG Omaha for an amendment to )  
its Certificate of Convenience ) GRANTED  
and Necessity to provide local )  
exchange service in LATA 644 )  
served by US West Communications ) Entered: December 3, 1996

APPEARANCES:

For the Applicant:

TCG Omaha  
Loel P. Brooks  
Brooks, Pansing Brooks  
& Lamphere, P.C.  
755 NBC Center  
Lincoln, NE 68508-1424  
and  
Douglas W. Trabaris  
Teleport Communications Group  
233 South Wacker Drive,  
Suite 2100  
Chicago, Illinois 60606

BY THE COMMISSION:

By its application filed April 11, 1996, TCG Omaha ("TCG") seeks an amendment to its certificate of public convenience and necessity to provide local exchange service in LATA 644 served by US West Communications. Notice of the application appeared in the Omaha Daily Record on April 17, 1996. The following parties filed petitions for formal intervention: AT&T; Blair Telephone; Cambridge Telephone; Clarks Telephone; Glenwood Telephone Membership Corporation; Hartington Telephone; K & M Telephone; Lincoln Telephone & Telegraph (now Aliant Communications); MCI; Nebraska Independent Telephone Association; Nebraska Telephone Association; Pierce Telephone; Southeast Nebraska Telephone; and US West Communications. On June 28, 1996, a Motion to Stay and Request for Oral Argument was filed by certain formal intervenors. Oral arguments on the motion were held on July 9, 1996. An evidentiary hearing was conducted on November 5, 1996, in the Commission Hearing Room. Notice of the hearing was provided to all interested parties on October 23, 1996.

In addition to exhibits filed by the parties which are part of the record, the applicant provided testimony of the following witness:

Steven C. Andreassi, testified on behalf of TCG as follows:

TCG was granted a certificate of public convenience and necessity to provide switched intraLATA interexchange toll

service in LATA 644 in Nebraska on October 3, 1993. TCG Omaha possesses the technical resources necessary to provide basic local exchange service in LATA 644. TCG has installed a fiber optic network to provide basic local exchange service, including intraLATA toll and Centrex service and will continue to invest to provide high quality telecommunications services in Omaha. TCG Omaha's network facilities are currently being expanded by deploying a switch in Omaha. The quality of TCG Omaha's telecommunication service will equal or exceed service provided by the incumbent local exchange carrier and services will be provided to all customers. Additional rate options will be made available by granting TCG Omaha a certificate of authority.

TCG Omaha possesses ample financial resources to provide basic local exchange service in LATA 644. TCG Omaha is owned by TCG, Inc. (TCGI). In June, 1996, TCGI had a public offering of stock. TCGI is currently owned by TCI Communications (31.7%), Cox Communications (25%), Comcast Corp. (16.4%) and public shareholders (15.4%). The ownership of TCG Omaha remains the same. The public offering provides additional financial resources to TCGI and its subsidiaries, including TCG Omaha to invest in telecommunications infrastructure. Public reports indicate TCGI has raised over \$350 million in its stock offering.

TCG Omaha also possesses managerial competence to provide basic local exchange service in LATA 644. TCG Omaha will be supported by TCGI and will rely on its expertise in telecommunications. TCGI's management center in New York will assist TCG Omaha's local operations to ensure 24 hour per day, seven day per week support for customers. TCGI has been providing competitive local telecommunications services since 1985 and serves 150 communities in 13 states. In addition to the staff in New York, TCG Omaha will have staff located in the Omaha area.

Initially, TCG Omaha plans to provide local exchange telephone service including carrier access services to both business and residential customers. Local exchange service will enable customers to originate and terminate local calls to other customers served by TCG Omaha's network, as well as to customers of other competing local exchange carriers. TCG's local exchange service will also provide customers with the ability to access their choice of long distance interexchange carriers. Carrier access services will enable interexchange carriers to originate and terminate intrastate and interstate toll calls to customers of TCG Omaha's network.

TCG Omaha will follow all industry technical standards in provisioning its network and interconnecting with the network of US West. The technical, administrative and financial arrangements that TCG will seek with US West will be comparable

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to the arrangements US West has in place with other independent local exchange carriers. TCG Omaha will comply with all statutory requirements, administrative rules and Commission orders once certified.

TCG Omaha is committed to protecting the public safety and welfare through the provision of 911 service. TCG Omaha will have an interconnection arrangement with US West to ensure customers receive 911 service in the same manner as they would receive such service from US West. Agreements are also being made with US West for the exchange of customer data so that 911 service will not be disrupted.

TCG Omaha will also ensure customers' names and addresses are included in a directory. TCG Omaha expects to negotiate arrangements with US West to publish customer information in directories.

Finally, Mr. Andreassi testified TCG is involved with Nebraska's Universal Service Task Force, as well as in federal proceedings dealing with Universal Service. TCG is a contributor to the Universal Service fund in most states in which it operates. Granting TCG Omaha a certificate will preserve and advance universal service as a direct result of lower prices and a greater number of options for the provision of local service.

No other parties introduced testimony or evidence.

O P I N I O N   A N D   F I N D I N G S

On February 8, 1996, President Clinton signed into law the Federal Telecommunications Act of 1996, opening the way for competition in all corners of the telecommunications market. One primary purpose of the Act is to promote the development of competition in local exchange service markets. To implement this purpose, the Federal Act requires incumbent local exchange carriers to resell their service to new entrants and to open their existing facilities under interconnection agreements which must be negotiated or arbitrated, and then approved by the state commissions. The Federal Act contemplates simplifying and reducing existing regulations to expedite entry by new local exchange carriers by removing all barriers to entry.

This Commission finds that it should embrace and adopt the pro-competitive policies of the Federal Telecommunications Act of 1996. The Commission further finds there is a strong likelihood that certain benefits will flow from a competitive environment, such as improved efficiency in the provision of services; accelerated deployment of technological innovations; improved customer service; innovative services to meet consumer needs; and choice of providers for consumers.

As it currently does when evaluating applications for certificates of authority to provide interLATA interexchange services, the Commission will consider applications, including TCG Omaha's application, for authority to provide local exchange service in light of the following criteria and standards:

- (a) Whether the applicant has provided the information required by the Commission;
- (b) Whether the applicant has provided a performance bond, if required;
- (c) Whether the applicant possesses adequate financial resources to provide the proposed service;
- (d) Whether the applicant possesses adequate technical competence and resources to provide the proposed service;
- (e) Whether the applicant possesses adequate managerial competence to provide the proposed service; and
- (f) Whether granting the applicant a certificate preserves and advances universal service, protects the public safety and welfare and ensures the continued quality of telecommunications services and safeguards the rights of consumers, pursuant to Section 253(b) of the Federal Telecommunications Act

TCG Omaha has demonstrated that it meets the standards of financial, technical and managerial competence and all other criteria necessary to provide local exchange service, both facilities-based and resale, in Nebraska. No party to this proceeding refuted TCG Omaha's competence. No performance bond is required.

Before TCG Omaha is allowed to provide local exchange service to its users:

- (a) TCG Omaha, either through negotiation or arbitration, must reach an interconnection agreement with the incumbent local exchange carrier, US West Communications;
- (b) The Commission must approve the interconnection agreement; and
- (c) TCG Omaha must file, and the Commission must approve, tariffs in accordance with the provisions of Section 002.21 of Neb. Admin. R. & Regs. tit. 291, ch. 5.

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Further, prior to providing service to any area outside the US West Service area located within LATA 644, TCG Omaha must receive authority from this Commission to expand its service territory.

A stipulation was entered into by the parties. The intervenors who participated in the stipulation maintain the right and opportunity to contest any future application of TCG Omaha to expand its service territory in the State of Nebraska. Nothing in the stipulation shall in any way limit TCG Omaha's right in connection with any such future application(s) to demonstrate to the Commission the applicant's satisfaction of any such criteria or standards established by the Commission.

As a provider of local exchange service in the state of Nebraska, TCG Omaha would be subject to the same laws, rules and regulations, both federal and state (including any laws, rules or regulations regarding universal service, restrictions on joint marketing and quality of service), applicable to any other local exchange company except those obligations imposed on incumbent local exchange carriers pursuant to Section 251(c) of the Federal Telecommunications Act.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-1321 be and is hereby granted.

IT IS FURTHER ORDERED that upon final approval of the interconnection agreements, TCG Omaha is granted authority to provide local exchange service, both on a resale basis and facilities basis, to the areas covered under the specific interconnection agreements. TCG Omaha must make further application to this Commission for authority to provide local exchange service outside the US West service area located within LATA 644.

IT IS FURTHER ORDERED that TCG Omaha is obligated to abide by the same laws, rules and regulations, both federal and state (including any laws, rules or regulations regarding universal service, restrictions on joint marketing and quality of service), applicable to other local exchange carriers except obligations imposed on incumbent local exchange carriers pursuant to Section 251(c) of the Federal Telecommunications Act.

IT IS FINALLY ORDERED that this Order be and hereby is made the Commission's official certificate of convenience and necessity to the applicant to provide local exchange service within the territory described herein in Nebraska.

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MADE AND ENTERED at Lincoln, Nebraska, this 3rd day of  
December, 1996.

COMMISSIONERS CONCURRING:



//s//Rod Johnson

//s//Frank E. Landis

//s//James F. Munnely

//s//Daniel G. Urwiller

NEBRASKA PUBLIC SERVICE COMMISSION

Chairman



ATTEST:

  
Executive Director